

Appeal of Irma Livingston

As in the Appeal of Mrs. Ida A. Rogers, decided this day, the single issue for our determination is whether the amounts received by Appellant were paid to her as compensation or as a gift.

The only material difference in the facts presented in this appeal and those in the Rogers appeal is that the payments in question were made to the surviving children of a deceased officer of the payor, rather than to a surviving spouse. We, however, perceive no significant distinction between voluntary payments made to the widow of a deceased employee by his former employer and similar payments made to the children of a former employee who died a widower. Apparently the Franchise Tax Board is in accord since it has placed no reliance upon this factual difference. For the reasons stated in our opinion in the Rogers appeal we have, accordingly, concluded that the amounts in question were paid to Appellant as a gift and are excludible from her gross income,

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to Section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protests of Irma Livingston to proposed assessments of additional personal income tax in the amounts of \$205.29, \$125.62 and \$33.00 for the years 1947, 1948 and 1949, respectively, be and the same is hereby reversed.

Done at Sacramento, California, this 27th day of November, 1956, by the State Board of Equalization.

Paul R. Leake, Chairman

Robert E. McDavid, Member

James H. Quinn, Member

Geo. R. Reilly, Member

Robert C. Kirkwood, Member

ATTEST: Dixwell L. Pierce, Secretary